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FISCAL IMPACT STATEMENT

LS 7035 | **NOTE PREPARED:** Jan 13, 2003
BILL NUMBER: HB 1988 | **BILL AMENDED:**

SUBJECT: Investment Policy and Venture Capital Tax Credit.

FIRST AUTHOR: Rep. Turner | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: **X** **GENERAL** | **IMPACT:** State & Local
X **DEDICATED**
FEDERAL

Summary of Legislation: This bill requires public pension funds to invest 20% of the amount that the fund allocates to alternative investments in Indiana alternative investments. It provides that if, in the exercise of financial and fiduciary prudence, a public pension fund determines that appropriate alternative investments are not available in Indiana to meet the 20% allocation requirement, the fund may not invest the amount that the board was not able to invest in alternative investments in Indiana in alternative investments outside Indiana. The bill makes the venture capital investment tax credit permanent (instead of expiring at the end of 2008) and provides that the credit applies to investments made beginning in 2003 (instead of 2004).

Effective Date: January 1, 2003 (retroactive); July 1, 2003.

Explanation of State Expenditures: This proposal affects the policy under which the public pension funds operate. The decisions of the Boards of Trustees of the Public Employees' Retirement Fund (PERF) and the Teachers' Retirement Fund (TRF) will need to fall within the parameters of the bill regarding alternative investments.

Background: The funds operate under the prudent investment standard.

IC 5-10.3-5-3(a) states : *The Board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The board shall also diversify such investments in accordance with prudent investment standards*.

Explanation of State Revenues: The bill (1) eliminates the December 31, 2008 deadline for a taxpayer to make venture capital investments that qualify for the Venture Capital Investment Tax Credit; and (2) moves back the starting date after which qualified venture capital investments may be made from December 31, 2003 to December 31, 2002. The precise impact of these changes is indeterminable. However, current statute limits the total amount of credits claimed during a calendar year under the Venture Capital Investment Tax Credit to $10.0 M. Any impact from the bill could potentially begin in FY 2004.

Background: Under current law, a taxpayer (individual or entity) is entitled to a non-refundable tax credit equal to the lesser of (1) 20% of qualified investment capital provided to a qualified Indiana business during a calendar year or (2) $500,000. *Qualified investment capital* is debt or equity capital provided to a qualified Indiana business. Current law limits total tax credits claimed to $10 M per year. According to statute, credits are granted in the chronological order in which returns claiming the credit are filed until the $10 M limit is reached. The credit may be taken against a taxpayer's State Gross Retail and Use Tax, Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, or Insurance Premiums Tax liability. If the amount of the credit exceeds the taxpayer's liability, the excess credit may be carried forward to subsequent years. A taxpayer is not entitled to a carryback or a refund of any unused credit. If a pass through entity does not have a tax liability, the credit may be taken by shareholders, partners, or members in proportion to their distributive income from the pass through entity.

Since the change is effective beginning in tax year 2003, any fiscal impact could potentially begin in FY 2004. Revenue from the AGI Tax on corporations, the Insurance Premiums Tax, and the Financial Institutions Tax is distributed to the state General Fund. Eighty-six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of this revenue is deposited in the Property Tax Replacement Fund. Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the State General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Loan Fund (0.033%).

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Public Employees' Retirement Fund; Teachers' Retirement Fund.

Local Agencies Affected: Local units and school corporations participating in PERF and TRF, and local units with members in the 1925, 1937, and 1953 Police Officers and Firefighters' Pension Funds.

Information Sources: Ed Gohmann, Fund Counsel for the Public Employees' Retirement Fund, 233-4132; Bob Newland, Investment Officer for the Teachers' Retirement Fund, 232-3868.

Fiscal Analyst: James Sperlik, 317-232-9866; Jim Landers, 232-9869.